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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,778	10/30/2003	Ollie B. Wilson JR.	SF-02	8904
24985	7590	04/04/2005	EXAMINER	
KENNETH S WATKINS JR 372 RIVER DR DAHLONEGA, GA 30533			HUYNH, LOUIS K	
			ART UNIT	PAPER NUMBER
			3721	
DATE MAILED: 04/04/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/697,778

**Applicant(s)**WILSON ET AL. **Examiner**

Louis K. Huynh

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 11-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/30/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I, claims 1-10, in the reply filed on 02/14/2005 is acknowledged. The traversal with respect to Group II is on the ground that the materially different apparatus cited by the examiner having "means for removing chip portion of the bag above the seal formed in the top portion" meets the claimed apparatus of Group I, specifically claim 1. This is not found persuasive because the apparatus of claim 1 does not required any means for removing chip portion of the bag above the seal formed in the top portion for patentability. Therefore, an apparatus with such means for practicing the method of claim 11 of Group II is materially different from the claimed apparatus of claim 1.

The requirement is still deemed proper and is therefore made FINAL.

2. Furthermore, Applicant's election of Group I in the reply filed on 02/14/2005 did not distinctly and specifically point out the supposed errors in the restriction requirement with respect to Groups III and IV; therefore, the election has been treated as an election without traverse with respect to Groups II and IV (MPEP § 818.03(a)).

3. As a result, claims 11-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions, there being no allowable generic or linking claim.

### ***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "bias element biasing a wicket

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wire against a reference element attached to the frame” (claim 10) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

5. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-3, 5, 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipes (US 5,177,939) in view of Savigny (US 5,421,143).

Lipes discloses a bagging machine (10) comprising: a frame (11), a bag station attached to the frame (11) and having a wicket support bar (12'), a tooling assembly (chute assembly 12) disposed vertically above and adjacent the wicket support bar (12'), a bag transfer assembly (27, 50, 51) attached to the frame and including a bag engagement element (30) for gripping a bag (14) and transfer the bag to a sealing assembly (29) disposed vertically below the tooling assembly (12) (FIG. 3; col. 4, lines 3-8), and an index means (17) for indexing the bags forwardly. The bagging machine of Lipes meets all of applicant's claimed subject matter but lacks the specific teaching of a plurality of wicket support bars and the indexing means indexing at least one of the plurality of the wicket support bars.

Savigny disclose a bag holder for bagging machine comprising: a plurality of wicket support bars (44) and indexing means (30) for indexing the wicket support bar forwardly as one of a bag (50) is withdrawn from a plurality of bags supported by the wicket support bar so that when all the bags on one wicket support bar are removed, the bag holder will rotate to bring the bags on the other wicket support bar into the bagging machine and the bagging operation will continue with less down time.

Therefore, it would have been obvious to an ordinary skilled person in the art, at the time the invention was made, to have modified the bagging machine of Lipes by having provided a bag holder having a plurality of wicket support bars, as taught by Savigny, in order to keep the bagging operation going with less down time.

With respect to Claims 2 and 3, the indexing means in the modified bagging machine of Lipes would index the wicket support bar by a thickness of the bag as one bag is removed for each bagging cycle.

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With respect to Claim 5, the plurality of wicket support bars in the modified bagging machine of Lipes are mounted on a rotatable carousel and the carousel would have been attached to the frame of the bagging machine so as to form a complete bagging machine.

With respect to Claim 7, the transfer mechanism in the modified bagging machine of Lipes includes a griper element (30) disposed on either side of the tooling assembly (12) (FIGS. 3, 5 & 8A).

With respect to Claim 8, the transfer mechanism in the modified bagging machine of Lipes further includes a linear actuator (52) attached to the gripper element and a cross beam (27) that vertically translate along a vertical guide (51) attached to the frame (11).

With respect to Claim 10, the indexing means in the modified bagging machine of Lipes include a bias element (piston 33) biasing a wicket wire (51) against a reference element (45).

8. Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipes (US 5,177,939) in view of Savigny (US 5,421,143) as applied to claim 1 above; and further in view of Jensen (US 5,249,409).

With respect to Claim 4, the modified bagging machine of Lipes meets all of applicant's claimed subject matter but lacks the specific teaching of the bag station comprising four wicket support bars.

Jensen disclose an apparatus for encapsulating articles in wicket bags wherein the wicket bags (20) are carried on a platform having a plurality of positions including a loading position (14), unloading position (16) and acquisition position (18) such that the bags (20) in a position

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adjacent to the acquisition position (18) are available for receiving articles when the bags in the acquisition position is exhausted.

Therefore, it would have been obvious to an ordinary skilled person in the art, at the time the invention was made, to have further modified the bagging machine of Lipes by having provided a plurality of wicket support bars, as taught by Jensen, so that wicket support bar with loaded bags are always ready to replace the one with exhausted bags. The exact number of wicket support bars, four in the instant application, would have been obvious as a matter of engineering design choice since two, four or eight wicket support bars provided in the modified bagging machine of Lipes would have served the same purpose.

With respect to Claim 6, the plurality of wicket support bars in the modified bagging machine of Lipes would have been mounted on a rotatable carousel and the carousel would have been attached to the frame of the bagging machine so as to form a complete bagging machine.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure has been cited on form PTO-892 along with the applied prior art.

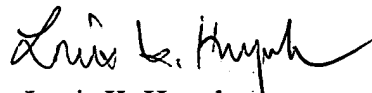
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is (571) 272-4462.

The examiner can normally be reached on M-F from 9:30AM to 5:00PM.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Louis K. Huynh  
PRIMARY EXAMINER  
Art Unit 3721

March 30, 2005